

**FILED**

NOV 03 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 08-90171

**ORDER**

**KOZINSKI**, Chief Judge:

Complainant alleges that the judge assigned to his civil case made various improper substantive and procedural rulings, including denying complainant's motions for recusal. These charges relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the judge unduly delayed ruling on one of his motions. "Delay is not cognizable 'unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.'" In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009) (quoting Judicial-Conduct Rule 3(h)(3)(B)).

Complainant provides no evidence of improper motive or habitual delay. Nor was any delay extraordinary; the judge ruled on complainant's motion within five

months.

Complainant lastly alleges that the judge was hostile to him because of his pro se status and favored the defendants and their attorneys. A review of the docket reveals no hearings, and complainant does not point to a specific order demonstrating bias or hostility. Complainant hasn't provided any other verifiable proof (or names of witnesses) to support these allegations, and adverse rulings alone do not constitute proof of bias or hostility. In re Complaint of Judicial Misconduct, Nos. 08-90149+, slip op. at 13736 (9th Cir. Jud. Council Sept. 23, 2009) (designated for publication). Because there is no evidence that misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**